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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of:

Jean A. Chmielewski

Serial No. 10/018,043

Filed May 21, 2002

PHARMACEUTICAL MATERIALS  
AND METHODS FOR THEIR  
PREPARATION AND USE



Before the Examiner  
Leigh C. Maier

Group Art Unit 1623

**RESPONSE TO OFFICE ACTION**

Assistant Commissioner for Patents  
Washington DC 20231

Sir:

In response to the Office Action mailed May 5, 2004, Applicant respectfully request reconsideration of the Application in light of the following discussion and remarks. Enclosed is authorization to charge the fee due for a two-month extension of time 1.17(a)(2)) at the rate charged to small entities. The Commissioner is also authorized to grant any additional extensions of time which may be necessary; and charge any additional fees which may be due or credit any overpayment to Deposit Account No. 23-3030, but not to include any payment of issue fees.

Response to Office Action - Chmielewski  
USSN 10/018,043  
Attny. Dkt. No. 7024-536

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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231 on October 5, 2004.

John J. Emanuele  
Name of Registered Representative

Signature

October 5, 2004  
Date of Signature

### **SUMMARY OF OFFICE ACTION**

Claims 1-14 are pending in the Application of these claims 7-10 have been removed by the Office from Consideration. The instant Action has made final a Restriction Requirement first made in a communication for the Office mailed on 24 July 2003. The instant Action acknowledged that the Applicant elected claims 1-6 and 11-14 with traverse in response to the earlier Office Action.

#### **Rejections**

The Action has rejected claims 1, 2, 5, 11 and 14 under 35 U.S.C. §102(b) as being anticipated by European Patent Application EP 052413 (Chen).

The Action has rejected claims 1-6 and 11-14 been rejected under 35 U.S.C. § 103(a) as being obvious in view of Chen (EP 052413).

In view of the discussions below, it is believed that each rejection is overcome and that claims 1-6 and 11-14 should be allowed

#### **Allowable Subject Matter**

The Office Action also noted that the claims limited to the use of the elected species, lactose, appear to be free of the art.